IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23213 of 2004

Between:

1 Iilineni Rajeswar Rao, S/o. Narayana Rao,
Mallapur Village, Mandal Gangadhara, Karimnagar District.
2 Smt. Iilineni Rajyalaxmi, W/o. Iilineni Rajeswara Rao,
Mallapur Village, Mandal Gangadhara, Karimnagar District.

..... PETITIONERS

AND

1 The Commissioner of Prohibition and Excise, Hyderabad.
2 The District Collector, Karimnagar.
3 The Superintendent, Prohibition and Excise, Karimnagar
4 Toddy Tappers Cooperative Society, Mallapur,

Rep by its President - Adipalli Lingaiah,
S/o. Ilaiah R/o. Mallapur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one in the nature of writ of Mandamus declaring the inaction on the part of the 2nd and 3rd respondents herein in not removing the Toddy Trees from our Agriculture lands exercising the powers Under Sec. 27 of A.P. Excise Act, 1968 in pursuant to the Proceedings issued in L.Dis.Cr.No. 15540/2002/CPE/E4 dt. 30-9-2002 by the 1st Respondent, as arbitrary, illegal and contrary to the provisions of A.P. Excise Act, 1968 and consequently seeking a direction to the Respondent Officials to accord permission for cutting down (51) toddy trees existing in the petitioners agricultural lands in Sy.Nos. 7, 8, 21 and 22/B situated at Mallapur Village, Gangadhara Mandal, Karimnagar District.

Counsel for the Petitioners:MR.T.V.RAMANA RAO

Counsel for the Respondent Nos.1 to 3: GP FOR PROHIBITION & EXCISE
Counsel for the Respondent No.4: ---

The Court at the stage of admission made the following ORDER:

The first petitioner is the owner of the land in survey Nos. 7,8 and 21 of Mallapur village, Gangadhara mandal, Karimnagar district. The second petitioner, the wife of the first petitioner, is said to be the owner of the land in survey No.22/B of the same village. According to them, they are growing various crops in the lands and in the year 2002-03 they raised mango garden by digging wells and arranging drip irrigation. It is said that a sum of Rs.3,00,000/- is spent for that purpose.

The petitioners state that there are some toddy trees in the land and that the tappers are disturbing the drip irrigation pipes by their indiscriminate acts and omissions and are, in fact, selling the toddy around the trees. They made representations to the respondents seeking permission to cut the toddy trees. When there was no response from them, they filed W.P.No.14480 of 2003. The writ petition was disposed of on 18.07.2003 directing the respondents to take necessary steps in accordance with the relevant provisions of law. The grievance of the petitioners is that inadvertently the number of trees was described as 15 in the earlier writ petition, whereas about 51 more such trees are there in the land. It is stated that due to inadvertence, the number of trees existing in respect of the one patta number was stated vis-à-vis all the survey numbers. Appropriate directions are sought for in this regard.

Heard learned counsel for the petitioners and learned Government Pleader for Prohibition & Excise.

Pursuant to the directions issued by this Court in W.P.No.14480 of 2003, action is said to have been taken by the second respondent and permission was accorded on 25.11.2003 permitting the petitioners to cut 15 toddy trees, subject to certain conditions. If there are any other similar trees, the question as to whether similar action needs to be taken, can be considered by respondents 2 and 3. The inadvertent omission on the part of the petitioners to mention the exact number of trees cannot defeat their rights.

Hence, the writ petition is disposed of directing respondents 2 and 3 to consider

the representation for according permission, similar to the one granted through order dated 25.11.2003, in respect of any toddy trees said to be existing on the lands of the petitioner, after due verification. No order as to costs.

20.12.2004

ksld

To

1 The Commissioner of Prohibition and Excise, Hyderabad.
2 The District Collector, Karimnagar.
3 The Superintendent, Prohibition and Excise, Karimnagar
4 Two CCs to the Government Pleader for Prohibition & Excise, A.P.High Court

Buildings, Hyderabad (OUT).

5 Two CD copies.